



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,031	09/19/2001	Takafumi Fukumoto	50203-135	8290

7590

05/22/2003

McDermott, Will & Emery
600 13th Street, N.W.
Washington, DC 20005-3096

EXAMINER

VO, HIEN XUAN

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 05/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/955,031

Applicant(s)

FUKUMOTO, TAKAFUMI

Examiner

Hien X. Vo

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 3-8 and 12-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Serial No.: 09/955,031
Art Unit: 2863

2

DETAILED ACTION

Notice to Applicant(s)

1. This application has been examined. Claims 1-17 are pending.
2. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which papers have been placed of record in the file.
3. The prior art submitted on 09/19/2001 has been considered as indicated on the enclosed copies of Form PTO-1449.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1-2, and 9-11 are rejected under 35 U.S.C. § 102(e) as

Serial No.: 09/955,031
Art Unit: 2863

3

being anticipated by Joyce et al. (U.S. Patent No. 6,550,052).

With respect to claims 1 and 9, Joyce et al. discloses the software development framework for constructing embedded vehicle controller software including a conversion unit for converting source files into a calibrating file (see e.g. Fig.1, col. 1, lines 26-29 and col. 2, lines 50-62) and a calibration unit for performing calibration based on the post-converted calibrating file to output a calibration result (see e.g. col. 1, lines 29-37).

With respect to claims 2 and 11, Joyce et al. disclose the invention as claimed including the data specification information is directly described in a data file among the source file (see e.g. col. 2, lines 5-10).

With respect to claim 10, Joyce et al. disclose the invention as claimed including the step of adding the data specification information required for conversion into a calibrating file to source file necessary for operating the control unit (see e.g. col. 3, lines 34-50), converting the source files into a calibrating file (see e.g. Fig.1, col. 1, lines 26-29 and col. 2, lines 50-62) and performing calibration based on the post-converted calibrating file to output a calibration result (see e.g. col. 2, lines 1-10).

Serial No.: 09/955,031
Art Unit: 2863

4

Allowable Subject Matter

6. Claims 3-8, and 11-17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. All claims are rejected.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Hien Vo, whose telephone number is (703)308-5253. The examiner can normally be reached on Monday-Friday from 9:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow, can be reached on (703)308-3126.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Serial No.: 09/955,031
Art Unit: 2863

5

or faxed to:

(703) 308-7382 (for informal or draft
communications, please label "PROPOSED" or
"DRAFT")

Hand-delivered responses should be brought to Crystal Plaza 4, Arlington. VA.,
Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of
this application should be directed to the Group receptionist
whose telephone number is (703) 308-0956.

HIEN VO
May 15, 2003


John Barlow
Supervisory Patent Examiner
Technology Center 2800